



**BILL HASLAM**  
GOVERNOR

STATE OF TENNESSEE  
**DEPARTMENT OF EDUCATION**  
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**KEVIN HUFFMAN**  
COMMISSIONER

## **MEMORANDUM**

**TO:** Directors of Schools, Federal Programs Officers, Accountability Directors  
**FROM:** Erin O'Hara, Assistant Commissioner for Data and Communications  
**RE:** ESEA Flexibility Waiver Provisions  
**DATE:** March 23, 2012

Below please find information on the specific provisions of the Elementary and Secondary Education Act that were waived under Tennessee's ESEA Flexibility Package. These waivers will be discussed in the upcoming divisional meetings on accountability on March 27 in Middle Tennessee, March 29 in West Tennessee, and April 2 in East Tennessee as well as on the make-up webinar on April 11.

### **2013-2014 Timeline 1111(b)(2)(E)-(H)**

- Timeline is for achieving one hundred percent proficiency is waived and the state was approved for state level Annual Measurable Objectives and to work with Local Education Agencies (LEAs) set new ambitious but achievable LEA Annual Measurable Objectives.

### **LEA Requirements and LEA Improvement 1116(c)(3) and (5)-(11) and 1116 (e)**

- Waives requirements to identify LEAs by ESEA status definitions of in improvement, corrective action, and restructuring and waives corresponding requirements at each status level.
  - NOTE: In place of the previous status definitions, the state's new accountability system was approved including identification of LEAs considered exemplary, intermediate and in need of improvement based upon Achievement and Gap Closure Targets.
- Waives federal requirement for set-aside of amount equal to 20% of Title I, Part A funds for Public School Choice or Supplemental Educational Services.
- Provides for set-Aside Funding Options
  - Any allowable activity under Title I, Part A. LEA must ensure sufficient support for 1) interventions in Priority and Focus schools, 2) recognition of Reward schools, and 3) support for schools who have not met their AMOs.

### **School Improvement and LEA Requirements 1116(b)(except (b)(13))**

- Waives requirements to identify schools by ESEA status definitions of in improvement, corrective action, and restructuring and waives corresponding requirements at each status level.
  - NOTE: In place of the previous status definitions, the state's new accountability system was approved including identification of Priority, Focus and Reward schools.
- Waives requirement for 10% set-aside for Professional Development.

- 1116 (b)(13) permits a student who has transferred to remain in the choice school through the highest grade.

#### **School Improvement Funds 1003(a) and 1003(g)**

- 1003(a) funds can be distributed for use in priority and focus schools.
- 1003(g) funds for priority schools to implement one of the four SIG models.

#### **Schoolwide Poverty Threshold of 40% or more 1114(a)(1)**

- Priority or focus schools may operate a schoolwide program with less than 40% poverty.

#### **Highly Qualified 2141 (c)**

- SEA/LEA Title II A agreement plans waived.
- Section 1119 on **highly qualified teachers and paraprofessionals is NOT WAIVED.**
- The department is reviewing possible modifications to the current highly qualified teacher requirements which includes degrees, certifications, and subject matter competence.
- Section 1111(b)(8)(C) states that the SEA must ensure that poor and minority children are not taught at higher rates than other children by inexperienced, unqualified, or out-of-field teachers. The state is considering possible ways to use the new evaluation system to help meet this requirement.

#### **Limitations on Transferability of Funds 6123**

- 6123(a) Limit of 50% (now allows 100%) an SEA may transfer from a covered ESEA program into another covered ESEA program or into Title I, Part A. “Covered programs” include Title I A, Title II D (carryover), 21<sup>st</sup> Century but NOT Title III and others.
- 6123(b)(1) Limit of 50 or 30% an LEA may transfer from a covered ESEA program into another covered ESEA program or into Title I, Part A and do not have to be used for LEA improvement but still need to follow title allowability provisions.
- Notifications of transfers not necessary prior to transfers.

#### **Rural Schools 6213(b) and 6224(e)**

- Waives restrictions on using funds under section 1116 for LEAs who fail accountability provisions.

#### **21<sup>st</sup> Century Community Learning Centers (CCLC)**

- Waiver permits an eligible entity to provide 21<sup>st</sup> CCLC activities to support expanded learning time during an expanded school day, week, or year in addition to activities during non-school hours or periods when school is not in session. The state’s new competition for 21<sup>st</sup> CCLC funds reflects this provision.
  - NOTE: Tennessee has created a competitive priority for applications for 21<sup>st</sup> CCLC funds that serve Priority schools.